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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,339	02/22/2005	Daniel Ballin	36-1888	3643

23117 7590 10/31/2007  
NIXON & VANDERHYE, PC  
901 NORTH GLEBE ROAD, 11TH FLOOR  
ARLINGTON, VA 22203

EXAMINER
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KIM, EUNHEE

ART UNIT	PAPER NUMBER
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2123

MAIL DATE	DELIVERY MODE
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10/31/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/525,339

Applicant(s)

BALLIN ET AL.

Examiner

Eunhee Kim

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 25 and 27-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 25 and 27-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/01/2007 has been entered.

2. Claims 25 and 27-32 are presented for examination.

### *Response to Applicant's Remarks & Examiner's Withdrawals*

3. Examiner respectfully withdraws the rejection over 35 USC § 101 in view of the amendment and/or applicant's arguments.

### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 25 and 27-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Myers (WO 99/57900), in view of Sakaguchi (US Patent No. 6,310,627).

Myers teaches (Claims 25, 28, and 31) a method and a system of object model generation (Abstract), comprising the steps of:

a) storing a set of weight values expressing a first object model of a first type as a weighted sum of a plurality of predefined object models, each of the first type, wherein the object models of the first type comprise an avatar (Fig. 1-4, Page 10 lines 19-30, Page 11 lines 22-24, Page 40 line 6-35, Page 41 lines 1-35, Page 48 lines 20-30, Page 49 lines 1-14);

b) applying the set of weight values to a plurality of predefined models of a second type, wherein the object models of the second type comprise clothing models, to generate an output object model of the second type corresponding to a weighted sum of the predefined models of

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the second type wherein the output object model of the second type comprise a model of clothing garments in the shape which the garments would assume when applied to the avatars (Fig. 1-4, Page 10 lines 19-30, Page 11 lines 22-24, Page 40 line 6-35, Page 41 lines 1-35, Page 48 lines 20-30, Page 49 lines 1-14); and

c) displaying to user an avatar represented by the first object model of the first type and an article of clothing represented by said output object model of the second type.

Myers fails to teach displaying to a user an avatar simultaneously with an article of clothing (Fig. 1-4, Page 10 lines 19-30, Page 11 lines 22-24, Page 40 line 6-35, Page 41 lines 1-35, Page 48 lines 20-30, Page 49 lines 1-14).

Myers and Sakaguchi are analogous art because they are all related to an image performance (Fig. 7).

Therefore, it would have been obvious to one of ordinary skill in the art of at the time the invention was made to have included simultaneous display of images of Sakaguchi, in the method of an enhanced user defined image system of Myers because simultaneous display of images is a well known process to a skilled artisan in a method of an enhanced user defined image system, and Sakaguchi teaches advantages of the system that provides the monitoring of the virtual try-on states qualitatively (Col. 1 lines 30-36, Col. 2 lines 9-12).

Myers teaches (Claims 27 and 32) wherein the object models of the first or second type each comprise a plurality of co-ordinates representing vertex points in a virtual space (Page 10 lines 19-30, Page 11 lines 22-24, Page 40 line 6-35, Page 41 lines 1-35, Page 48 lines 20-30, Page 49 lines 1-14);

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(Claim 29) transmitting information relating to a first object model of a first type to an object model server (Page 45 lines 20-25, Page 49 lines 1-14); and

(Claim 30) wherein the transmitted information is the first object model itself (Page 45 lines 20-25, Page 49 lines 1-14).

### *Response to Arguments*

8. Applicant's arguments filed 10/01/2007 have been fully considered but they are not persuasive.

Applicants have argued that Myer does not teach

- That an avatar can be defined by a set of weight values expressing a first object model of a first type;
  - That the first object model is expressed as a weighted sum of a plurality of predefined object models;
  - That clothing models can be defined by a set of weight values expressing object models of a second type;
- or
- That by applying the set of weight values of the first object model to a clothing model it is possible to generate an output object model which comprises a model of the clothing garment represented by the second type of object model when being worn the avatar.

The examiner disagrees as Myer teaches an avatar (Fig. 3B & 4), avatar costumes that is corresponding to Clothing (Page 10 lines 22, Page 11 lines 19-21), and Fig. 3B & 4 shows a model of the clothing garment represented by the second type of object model when being worn the avatar.

### *Conclusion*

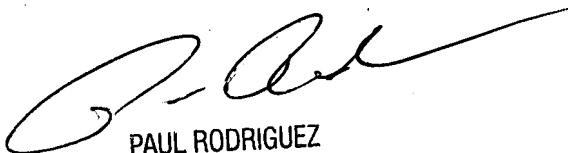
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eunhee Kim whose telephone number is 571-272-2164. The examiner can normally be reached on 8:30am-5:00pm Monday to Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Rodriguez can be reached on 571-272-3753. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EK



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